

Domino, KB: Committee on Professional Liability Busy in 2004. *ASA Newsletter* 68(5): 26-27, 2004.

Full Text

The Committee on Professional Liability's activities involve data gathering and analysis, education and responses to medical liability issues.

Data Collection and Analysis

The committee's primary efforts involve the Closed Claims Project with additional data collection by the Pediatric Perioperative Cardiac Arrest Registry and the Postoperative Visual Loss Registry.

The Closed Claims Project depends upon the services of its core staff as well as a hard-working group of volunteer members from ASA. The Closed Claims Project owes an enormous debt of gratitude to the 89 ASA members who are currently on our list of active volunteer reviewers. During 2003, 26 reviewers spent a total of 68 days reviewing 709 claims. I would like to take this opportunity to acknowledge those ASA members who are on our list of active volunteers and have submitted more than 100 claims each to the database: James F. Black, M.D., Patrick K. Birmingham, M.D., John T. Bonner, M.D., Bruce R. Brookens, M.D., David E. Byer, M.D., Michael G. Cassaro, M.D., Frederick W. Cheney, M.D., Melvin A. Cohen, M.D., Karen B. Domino, M.D., Richard M. Dsida, M.D., Peter L. Hendricks, M.D., Robert E. Kettler, M.D., Helen T. O'Keeffe, and Gary W. Welch, M.D., Ph.D. We continue to welcome new closed claims reviewers. To obtain an application form, please contact Project Manager Karen Posner, Ph.D., at <posner@u.washington.edu>.

To date more than 6,500 closed claims have been acquired from 35 insurance organizations. These companies currently insure more than 14,500 anesthesiologists. Efforts continue to expand the database by collecting claims from participating companies at regular intervals and by recruiting new companies that strengthen the geographic distribution of the database. More than 300 new claims are entered into the database each year. Ongoing data collection is crucial as the acquisition of new claims improves the ability to study rare injuries that may be difficult to understand as isolated events. Ongoing data collection also leads to assessment of the impact of changing patterns of practice on anesthesia-related injury and allows us to identify new sources of liability such as pain management and office-based anesthesiology.

Since the inception of the project in 1985, a total of 21 papers have been published in the peer-reviewed literature. A report on chronic pain management claims was published in the January edition of *Anesthesiology* (2004; 100:98-105). The proportion of claims and size of payments related to chronic pain management by anesthesiologists in the Closed Claims database increased in the 1990s. Although nerve injury and pneumothorax were the most common injuries in claims related to chronic pain management, severe injuries involving brain damage and death occurred with epidural steroid injections and maintenance of implantable devices. Two papers concerning injuries and liability associated with central lines and regional anesthesia are currently in press in *Anesthesiology*. A bibliography of publications from the ASA Closed Claims Project is maintained at the project Web site <www.asaclosedclaims.org>.

Educational Activities

The committee prepares articles on the topics of litigation and liability for the June issue of the ASA NEWSLETTER. Clinical lessons from the Closed Claims Project have been discussed by committee members at multiple national and international meetings. The Closed Claims Project was highlighted at the Anesthesia Patient Safety Foundation booth at the ASA 2003 Annual

Meeting with posters on difficult airway management and perioperative visual loss and a multimedia presentation on important anesthesia safety issues. In 2003 Closed Claims Project staff provided customized data reports to 56 ASA members and participating companies for use in educational, quality-improvement and risk-management activities. Data requests may be obtained by contacting Dr. Posner.

Malpractice Liability Issues

Committee on Professional Liability Survey: This year the ASA Committee on Professional Liability is again conducting a survey of a variety of medical liability insurance carriers to assess changes in availability and rates in various states in 2003, which will be reported in the June ASA NEWSLETTER. Last year we found that although premiums for anesthesiologists increased an average of 28 percent, in most areas, they were still below premiums in the mid-1980s.

Expert Witness Testimony: At the ASA 2003 Annual Meeting, the House of Delegates approved a new procedure permitting review of expert witness testimony following a complaint by an ASA member. The new procedure is patterned after a similar program at the American Academy of Neurological Surgeons. Review procedures were described in detail by ASA Director of Governmental and Legal Affairs Michael Scott, J.D., in the December 2003 ASA NEWSLETTER. The Administrative Council considers the complaint first, then refers it to the Judicial Council.

Task Force on Liability in Invasive Pain Management: A task force chaired by Edward Michna, M.D., with members Timothy R. Deer, M.D., and Robert P. Raggi, M.D., was formed to investigate malpractice liability premiums of interventional pain physicians.

Task Force on Professional Medical Liability Insurance: A task force chaired by Rodney C. Osborn, M.D., with members Vincent J. Degenhart, M.D., James W. Futrell, Jr., M.D., and Larry D. Robbins, D.O., has been formed to investigate the feasibility of Professional Medical Liability Insurance Resolution No. 3. This resolution addresses: 1) reporting of significant medical liability insurance (MLI) issues annually to the Board of Directors and House of Delegates, 2) ASA's consideration of maintaining comprehensive MLI information on a state-by-state basis and 3) ASA's consideration of providing MLI brokerage services as a benefit to members. Through the efforts of the Washington Office, ASA is currently posting professional liability insurance companies on the "Members Only" page of the ASA Web site <www.ASAhq.org> with names and contact numbers on a state-by-state basis and updating these listings on a quarterly basis.

Please feel free to contact me <kdomino@u.washington.edu> if you have any questions or concerns regarding the committee's activities.